

**Executive Summary – Enforcement Matter – Case No. 44359**

**City of De Kalb**

**RN101918936**

**Docket No. 2012-1212-MWD-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s) and an actual major discharge.

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of De Kalb South Wastewater Treatment Plant, located at 1.5 miles due south of intersection of U.S. Highway 82 and Farm-to-Market Road 992, De Kalb, Bowie County

**Type of Operation:**

Wastewater treatment plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** September 6, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$35,890

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$35,890

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002 and September 2011

**Executive Summary – Enforcement Matter – Case No. 44359**  
**City of De Kalb**  
**RN101918936**  
**Docket No. 2012-1212-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** May 24, 2012  
**Date(s) of NOE(s):** June 7, 2012

***Violation Information***

Failed to comply with permitted effluent limitations [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System Permit No. WQ0010062002, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

Within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010062002 demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Remington Burklund, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2611; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Matt McAdoo, Public Works Director, City of De Kalb, 110 E. Grizzley Street, De Kalb, Texas 75559  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

**DATES**

Assigned  
PCW

11-Jun-2012  
25-Jun-2012

Screening

14-Jun-2012

EPA Due

## RESPONDENT/FACILITY INFORMATION

Respondent

City of De Kalb

Reg. Ent. Ref. No.

RN101918936

Facility/Site Region

5-Tyler

Major/Minor Source

Minor

## CASE INFORMATION

Enf./Case ID No.

44359

Docket No.

2012-1212-MWD-E

Media Program(s)

Water Quality

Multi-Media

No. of Violations

1

Order Type

Findings

Government/Non-Profit

Yes

Enf. Coordinator

Remington Burklund

EC's Team

Enforcement Team 3

Admin. Penalty \$ Limit Minimum

\$0

Maximum

\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)**

Subtotal 1

\$1,000

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History**

244.0%

Enhancement

Subtotals 2, 3, & 7

\$2,440

Notes

Enhancement for 36 months of self-reported effluent violations, two NOVs with same/similar violations, two NOVs with dissimilar violations, and two agreed orders that do not contain a denial of liability.

**Culpability**

No

0.0%

Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments**

Subtotal 5

\$0

**Economic Benefit**

0.0% Enhancement\*

Subtotal 6

\$0

Total EB Amounts  
Approx. Cost of Compliance

\$0  
\$0

\*Capped at the Total EB \$ Amount

## SUM OF SUBTOTALS 1-7

Final Subtotal

\$3,440

## OTHER FACTORS AS JUSTICE MAY REQUIRE

-1.5%

Adjustment

-\$50

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Recommended reduction so that the monthly self-reported violations do not overly impact the penalty.

Final Penalty Amount

\$3,390

## STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$3,390

## DEFERRAL

0.0%

Reduction

Adjustment

\$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

## PAYABLE PENALTY

\$3,390

Screening Date 14-Jun-2012

Docket No. 2012-1212-MWD-E

PCW

Respondent City of De Kalb

Policy Revision 2 (September 2002)

Case ID No. 44359

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918936

Media [Statute] Water Quality

Enf. Coordinator Remington Burkland

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	38	190%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	2	50%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 244%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

## Compliance History Notes

Enhancement for 36 months of self-reported effluent violations, two NOVs with same/similar violations, two NOVs with dissimilar violations, and two agreed orders that do not contain a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 244%

Screening Date 14-Jun-2012  
Respondent City of De Kalb  
Case ID No. 44359

Docket No. 2012-1212-MWD-E

PCW

Policy Revision 2 (September 2002)  
PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918936  
Media [Statute] Water Quality  
Enf. Coordinator Remington Burkland  
Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010062002, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6

Violation Description Failed to comply with permitted effluent limitations, as documented in a record review conducted on May 24, 2012, and as shown in the attached violation table.

Base Penalty \$10,000

### >> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

### >> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate total ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. In addition, chlorine residual and dissolved oxygen were considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or the environment.

Adjustment \$9,000

\$1,000

### Violation Events

Number of Violation Events 1

62 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended for the quarter containing the months of July 2011 and August 2011.

### Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

### Economic Benefit (EB) for this violation

### Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,390

This violation Final Assessed Penalty (adjusted for limits) \$3,390

# Economic Benefit Worksheet

**Respondent** City of De Kalb  
**Case ID No.** 44359  
**Reg. Ent. Reference No.** RN101918936  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Delayed Costs are assessed in the accompanying Penalty Calculation Worksheet.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	11-Jun-2012	<b>Screening</b>	14-Jun-2012	<b>EPA Due</b>	
	<b>PCW</b>	25-Jun-2012				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of De Kalb		
<b>Reg. Ent. Ref. No.</b>	RN101918936		
<b>Facility/Site Region</b>	5-Tyler	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	44359	<b>No. of Violations</b>	3
<b>Docket No.</b>	2012-1212-MWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Remington Burklund
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$16,250
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	100.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$16,250
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Notes: Enhancement for 36 months of self-reported effluent violations, two NOVs with same/similar violations, two NOVs with dissimilar violations, and two agreed orders that do not contain a denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$1,110  
Approx. Cost of Compliance \$10,000  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$32,500
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$32,500
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$32,500
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$32,500
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Screening Date 14-Jun-2012

Docket No. 2012-1212-MWD-E

PCW

Respondent City of De Kalb

Policy Revision 3 (September 2011)

Case ID No. 44359

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101918936

Media [Statute] Water Quality

Enf. Coordinator Remington Burkland

**Compliance History Worksheet**>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	38	190%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	2	50%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 244%>> **Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%>> **Compliance History Summary****Compliance History Notes**

Enhancement for 36 months of self-reported effluent violations, two NOVs with same/similar violations, two NOVs with dissimilar violations, and two agreed orders that do not contain a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 244%>> **Final Compliance History Adjustment****Final Adjustment Percentage \*capped at 100%** 100%



Screening Date 14-Jun-2012

Docket No. 2012-1212-MWD-E

PCW

Respondent City of De Kalb

Policy Revision 3 (September 2011)

Case ID No. 44359

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101918936

Media [Statute] Water Quality

Enf. Coordinator Remington Burklund

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010062002, Effluent Limitations and Monitoring Requirements Nos. 2 and 6

Violation Description

Failed to comply with permitted effluent limitations, as documented in a record review conducted on May 24, 2012, and as shown in the attached violation table.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Total chlorine residual and dissolved oxygen were evaluated to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or the environment.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,250

One quarterly event is recommended for the quarter containing the month of September 2011.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$1,110

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

# Economic Benefit Worksheet

**Respondent** City of De Kalb  
**Case ID No.** 44359  
**Reg. Ent. Reference No.** RN101918936  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$10,000	31-Jul-2011	1-Mar-2013	1.59	\$53	\$1,058	\$1,110
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to determine the cause of non-compliance and to make any necessary adjustments/repairs to the Facility to return to compliance with permitted effluent limitations. Date Required is the initial date of non-compliance. Final Date is the expected date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$1,110

Screening Date 14-Jun-2012

Docket No. 2012-1212-MWD-E

PCW

Respondent City of De Kalb

Policy Revision 3 (September 2011)

Case ID No. 44359

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101918936

Media [Statute] Water Quality

Enf. Coordinator Remington Burkland

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010062002, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as documented in a record review conducted on May 24, 2012, and as shown in the attached violation table.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels protective of human health or the environment.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 2

60 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

Two monthly events are recommended for the months of January 2012 and February 2012.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$15,000

This violation Final Assessed Penalty (adjusted for limits) \$15,000

# Economic Benefit Worksheet

**Respondent** City of De Kalb  
**Case ID No.** 44359  
**Reg. Ent. Reference No.** RN101918936  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Delayed costs to determine cause of non-compliance are addressed in the economic benefit for Violation No. 1.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 14-Jun-2012

Docket No. 2012-1212-MWD-E

PCW

Respondent City of De Kalb

Policy Revision 3 (September 2011)

Case ID No. 44359

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101918936

Media [Statute] Water Quality

Enf. Coordinator Remington Burkland

Violation Number 3

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010062002, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limitations, as documented in a record review conducted on May 24, 2012, and as shown in the attached violation table.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 30.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen and carbonaceous biochemical oxygen demand (5-day) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to pollutants which exceed levels protective of human health or the environment.

Adjustment \$17,500

\$7,500

## Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

One monthly event is recommended for the month of March 2012.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$15,000

This violation Final Assessed Penalty (adjusted for limits) \$15,000

# Economic Benefit Worksheet

**Respondent** City of De Kalb  
**Case ID No.** 44359  
**Reg. Ent. Reference No.** RN101918936  
**Media** Water Quality  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Delayed costs to determine cause of non-compliance are addressed in the economic benefit for Violation No. 1.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

**City of De Kalb**  
**Docket No. 2012-1212-MWD-E**  
**TPDES Permit No. WQ0010062002**

**Effluent Parameter Violation Table**

	<b>July 2011</b>	<b>August 2011</b>	<b>September 2011</b>	<b>January 2012</b>	<b>February 2012</b>	<b>March 2012</b>
<b>NH<sub>3</sub>-N</b> Daily Average Conc. Limit = 3 mg/L	8.2	3.6	c	12.1	12.2	11.6
<b>NH<sub>3</sub>-N</b> Single Grab Conc. Limit = 15 mg/L	c	c	c	16.2	20.4	19.6
<b>NH<sub>3</sub>-N</b> Daily Average Loading Limit = 8.8 lbs/day	10.3	c	c	28.4	19.3	23.9
<b>TSS</b> Daily Average Conc. Limit = 15 mg/L	c	c	c	c	17.3	34.3
<b>TSS</b> Daily Average Loading Limit = 44 lbs/day	c	c	c	c	c	86.8
<b>CBOD<sub>5</sub></b> Daily Average Conc. Limit = 10 mg/L	c	c	c	c	c	13.8
<b>CBOD<sub>5</sub></b> Daily Average Loading Limit = 29 lbs/day	c	c	c	c	c	32.5
<b>Chlorine Residual</b> Daily Minimum Conc. Limit = 1.0 mg/L	c	0.06	0.71	c	c	c
<b>Dissolved Oxygen</b> Daily Minimum Conc. Limit = 4.0 mg/L	c	3.7	3.9	c	c	c

NH<sub>3</sub>-N = Ammonia Nitrogen  
CBOD<sub>5</sub> = Carbonaceous Biochemical  
Oxygen Demand (5-day)

c = compliant  
TSS = Total Suspended Solids  
Conc. = Concentration

mg/L = milligrams per liter  
lbs/day = pounds per day





## Compliance History Report

Customer/Respondent/Owner-Operator: CN601365414 City of De Kalb Classification: AVERAGE Rating: 3.74

Regulated Entity: RN101918936 CITY OF DEKALB SOUTH WWTP Classification: AVERAGE Site Rating: 5.21

ID Number(s): WASTEWATER PERMIT WQ0010062002  
WASTEWATER EPA ID TX0069671  
WASTEWATER LICENSING LICENSE WQ0010062002

Location: South of De Kalb, approximately 1.5 miles due south of the intersection of U.S. Highway 82 and Farm-to-Market Road 992 in Bowie County, Texas

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: June 11, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 11, 2007 to June 11, 2012

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Remington Burklund Phone: 239 - 2611

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

### Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 02/25/2008 ADMINORDER 2006-1392-MWD-E  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: Effluent Limits PERMIT  
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.  
Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)  
Rqmt Prov: Self-reporting Requirements PERMIT  
Description: Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

Effective Date: 07/02/2011 ADMINORDER 2010-0348-MWD-E  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: Effluent Limit PERMIT  
Description: Failure to comply with permit effluent limits for total suspended solids, ammonia nitrogen, 5-day carbonaceous oxygen demand, and flow as documented by a TCEQ record review of

self-reported data.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

30 TAC Chapter 319, SubChapter A 319.1

Rqmt Prov: Effluent Reporting Requirements PERMIT

Description: Failure to submit effluent monitoring results at the intervals specified in the permit as

documented by a TCEQ record review.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	03/07/2012	(1004348)
2	06/07/2012	(1008024)
3	04/05/2012	(1010911)
4	07/08/2008	(554155)
5	06/25/2007	(583841)
6	07/23/2007	(608404)
7	08/08/2007	(608405)
8	09/21/2007	(608406)
9	10/22/2007	(622984)
10	11/26/2007	(622985)
11	12/27/2007	(622986)
12	02/22/2008	(674395)
13	03/26/2008	(674396)
14	01/28/2008	(674397)
15	06/23/2008	(683892)
16	05/19/2008	(692741)
17	05/22/2008	(692742)
18	06/20/2008	(692743)
19	11/06/2008	(706917)
20	07/21/2008	(713879)
21	08/21/2008	(713880)
22	09/25/2008	(713881)
23	02/10/2009	(723932)

24	10/20/2008	(729880)
25	11/24/2008	(729881)
26	12/10/2008	(729882)
27	01/12/2009	(729883)
28	02/10/2009	(753113)
29	03/09/2009	(753114)
30	04/08/2009	(753115)
31	10/08/2009	(765570)
32	05/06/2009	(770668)
33	06/09/2009	(770669)
34	02/12/2010	(788548)
35	01/29/2010	(789127)
36	07/20/2009	(811774)
37	08/19/2009	(811775)
38	09/22/2009	(811776)
39	11/11/2009	(811777)
40	12/08/2009	(811778)
41	01/13/2010	(811779)
42	06/22/2010	(827533)
43	04/12/2010	(833330)
44	05/12/2010	(833331)
45	06/18/2010	(845917)
46	06/10/2010	(847033)
47	06/24/2010	(861513)
48	07/13/2010	(861514)
49	07/14/2010	(861515)
50	07/13/2010	(861516)
51	08/11/2010	(867803)
52	09/08/2010	(874764)
53	12/10/2010	(880647)
54	10/11/2010	(882355)

55 11/11/2010 (888806)  
 56 12/09/2010 (897168)  
 57 01/18/2011 (903072)  
 58 04/26/2011 (912381)  
 59 02/11/2011 (927582)  
 60 03/21/2011 (927583)  
 61 04/14/2011 (927584)  
 62 05/16/2011 (938879)  
 63 06/07/2011 (946254)  
 64 07/12/2011 (953525)  
 65 08/10/2011 (960154)  
 66 09/09/2011 (966208)  
 67 10/11/2011 (972225)  
 68 11/03/2011 (978386)  
 69 12/08/2011 (985193)  
 70 01/17/2012 (991467)  
 71 04/27/2012 (997126)  
 72 02/10/2012 (998819)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 07/31/2007 (608405) CN601365414  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2007 (622984) CN601365414  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2007 (622985) CN601365414  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2007 (622986) CN601365414  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2007 (674397) CN601365414  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2008 (674395) CN601365414  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 02/29/2008 (674396) CN601365414  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2008 (692742) CN601365414  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2008 (692743) CN601365414  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 11/05/2008 (706917) CN601365414  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
Description: Failure to maintain facility. Specifically:  
a. Equalization basin. During the investigation, woody vegetation was observed growing within the equalization basin.  
b. Maintain clarifier. During the investigation, the clarifier weirs were uneven, rust was found on the weir plates, and excessive algae encrusted the clarifier.  
c. Maintain aeration basin rotor. The rotor was unbalanced which may result in failure of the equipment.  
d. Maintain oxidation ditch. Excessive vegetation in ditch.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to measure the influent/effluent in an accurate manner. During the investigation it was documented that the meter was not calibrated for submerged flow. Additionally, the last calibration date was in December of 2007. The staff gauge must be installed correctly on the flume as a primary flow measuring device.

Date: 01/31/2009 (753113) CN601365414  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2009 (811775) CN601365414  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2009 (811776) CN601365414  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2009 (861516) CN601365414  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2009 (811777) CN601365414  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2009 (811778) CN601365414  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2009 (811779) CN601365414  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2010 (861513) CN601365414  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/12/2010 (789127) CN601365414  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to maintain the collection system.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 30, SubChapter J 30.331(b)  
 30 TAC Chapter 30, SubChapter J 30.350(d)  
 Description: Failure to have operator, holding a Category C license or higher, operating the facility at a minimum of five days per week.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
 Description: Failure to maintain facility, specifically, failure to maintain equalization basin.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)  
 Description: Failure to notify the TCEQ Regional Office of an unauthorized discharge.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet permitted effluent limitations.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to measure the influent/effluent in an accurate manner.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)  
 Description: Failure to submit Discharge Monitoring Report (DMR) for the month of September 2009.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)  
30 TAC Chapter 319, SubChapter A 319.7(c)  
Description: Failure to provide calibration records for the pH, dissolved oxygen, and chlorine instruments.

Self Report? NO Classification: Minor  
Citation: TPDES WQ0010062002 PERMIT  
TWC Chapter 26 26.121  
Description: Failure to prevent an unauthorized discharge into a water of the State.

Date: 02/28/2010 (861514) CN601365414  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2010 (833330) CN601365414  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2010 (833331) CN601365414  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2010 (847033) CN601365414  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 06/18/2010 (845917) CN601365414  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 06/30/2010 (861515) CN601365414  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2010 (867803) CN601365414  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2010 (874764) CN601365414  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2010 (882355) CN601365414  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2010 (888806) CN601365414  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2010 (897168) CN601365414  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/13/2010 (880647) CN601365414  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 WQ 0010062002 PERMIT  
 Description: Failure to meet permitted effluent limitations.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 WQ0010062002 PERMIT  
 Description: Failure to notify the TCEQ Tyler Regional office of effluent violations that deviated from the permitted effluent limitation by more than 40%.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125  
 WQ0010062002 PERMIT  
 Description: Failure to properly manage sludge inventory.

Date: 12/31/2010 (903072) CN601365414  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2011 (927582) CN601365414  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2011 (927583) CN601365414  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2011 (960154) CN601365414  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter



Date: 08/31/2011 (966208) CN601365414  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2011 (972225) CN601365414  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2012 (998819) CN601365414  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 02/29/2012 (1004348) CN601365414  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2012 (1010911) CN601365414  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A

Sites Outside of Texas  
N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF DE KALB  
RN101918936

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2012-1212-MWD-E

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of De Kalb ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant located approximately 1.5 miles due south of the intersection of United States Highway 82 and Farm-to-Market Road 992 in Bowie County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on May 24, 2012, TCEQ staff documented that the Respondent exceeded the permitted effluent limitations as depicted in the table below:

Effluent Parameter Violation Table						
	July 2011	August 2011	September 2011	January 2012	February 2012	March 2012
<b>NH<sub>3</sub>-N</b> Daily Average Conc. Limit = 3 mg/L	8.2	3.6	c	12.1	12.2	11.6
<b>NH<sub>3</sub>-N</b> Single Grab Conc. Limit = 15 mg/L	c	c	c	16.2	20.4	19.6
<b>NH<sub>3</sub>-N</b> Daily Average Loading Limit = 8.8 lbs/day	10.3	c	c	28.4	19.3	23.9
<b>TSS</b> Daily Average Conc. Limit = 15 mg/L	c	c	c	c	17.3	34.3
<b>TSS</b> Daily Average Loading Limit = 44 lbs/day	c	c	c	c	c	86.8
<b>CBOD<sub>5</sub></b> Daily Average Conc. Limit = 10 mg/L	c	c	c	c	c	13.8
<b>CBOD<sub>5</sub></b> Daily Average Loading Limit = 29 lbs/day	c	c	c	c	c	32.5
<b>Chlorine Residual</b> Daily Minimum Conc. Limit = 1.0 mg/L	c	0.06	0.71	c	c	c
<b>Dissolved Oxygen</b> Daily Minimum Conc. Limit = 4.0 mg/L	c	3.7	3.9	c	c	c

NH<sub>3</sub>-N = Ammonia Nitrogen

CBOD<sub>5</sub> = Carbonaceous Biochemical  
Oxygen Demand (5-day)

c = compliant

TSS = Total Suspended Solids  
Conc. = Concentration

mg/L = milligrams per liter  
lbs/day = pounds per day

4. The Respondent received notice of the violations on June 12, 2012.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010062002, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Thirty-Five Thousand Eight Hundred Ninety Dollars (\$35,890) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Revenue Operations Section of the Commission's Financial Administration Division reviewed financial documentation submitted by Respondent and determined that Respondent is unable to pay the administrative penalty. Therefore, Thirty-Five Thousand Eight Hundred Ninety Dollars (\$35,890) of the penalty is deferred contingent upon Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Respondent to pay all or part of the deferred penalty.

## III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Thirty-Five Thousand Eight Hundred Ninety Dollars (\$35,890) as set forth in Section II, Paragraph No. 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of De Kalb, Docket No. 2012-1212-MWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010062002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to

the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.


10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

  
For the Executive Director

10/21/13  
Date

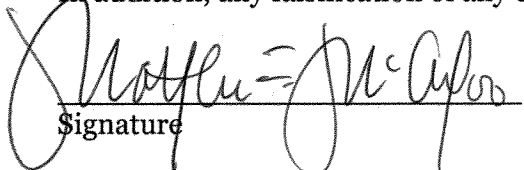
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of De Kalb. I am authorized to agree to the attached Agreed Order on behalf of the City of De Kalb, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of De Kalb waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

7-16-2013  
Date

MATTHEW E. MCADOO  
Name (Printed or typed)  
Authorized Representative of  
City of De Kalb

DIRECTOR OF PUBLIC WORKS  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.